

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

AARON WILLIAMS,

Plaintiff,

v.

PILLPACK LLC,

Defendant.

C19-5282 TSZ

MINUTE ORDER

The following Minute Order is made by direction of the Court, the Honorable Thomas S. Zilly, United States District Judge:

(1) Plaintiff's Motion to Certify Class, docket no. 29, is DEFERRED. The parties are DIRECTED to each file a supplemental brief, not to exceed ten (10) pages, on or before **February 5, 2021**, addressing (i) whether consent to be called by third parties unaffiliated with Defendant PillPack LLC, including consent to be called by third parties using fictitious company names or "dbas," *see* Response (docket no. 60 at 19), constitutes "prior express written consent" to be called by Defendant or its agents, 47 C.F.R. §§ 64.1200(a)(2), (f)(8), (f)(9); *see Satterfield v. Simon & Schuster, Inc.*, 569 F.3d 946, 955 (9th Cir. 2009) (concluding plaintiff's "consent to receive promotional material by [a third party] and its affiliates and brands cannot be read as consenting to the receipt of [defendant's] promotional material); and (ii) how this consent issue affects the Court's analysis of whether Plaintiff has satisfied Rule 23's commonality and predominance requirements, *see True Health Chiropractic, Inc. v. McKesson Corp.*, 896 F.3d 923, 931 (9th Cir. 2018) (concluding that "[s]ince [defendant] bears the burden [of proving consent], the court considers only the "consent defenses that [defendant] has advanced and for which it has provided supporting evidence" in determining whether those defenses "may be sufficiently similar or overlapping to allow [plaintiff] to satisfy the

1 predominance requirement”). Plaintiff’s Motion to Certify Class, docket no. 29, is
2 hereby RENOTED to February 5, 2021.

3 (2) The Court DIRECTS the parties to meet and confer and to file a Joint
4 Status Report on or before **February 5, 2021**, (i) indicating when the case will be ready
5 for trial, and how long such trial is anticipated to take; (ii) proposing related pre-trial
6 deadlines; and (iii) indicating whether the case can be tried remotely via the
7 ZoomGov.com platform. After reviewing the Joint Status Report, the Court intends to
8 order a case management scheduling order pursuant to Federal Rule of Civil Procedure
9 16(b) as soon as possible.

10 (3) The Clerk is directed to send a copy of this Minute Order to all counsel of
11 record.

12 Dated this 14th day of January, 2021.

13 William M. McCool
14 Clerk

15 s/Gail Glass
16 Deputy Clerk